



General Assembly

January Session, 2011

Raised Bill No. 1096

LCO No. 3082

* ____SB01096JUD__041311____ *

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING THE CRIMINAL POSSESSION AND SEIZURE
OF FIREARM AMMUNITION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-217 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) A person is guilty of criminal possession of a firearm,
4 ammunition or an electronic defense weapon when such person
5 possesses a firearm, ammunition or an electronic defense weapon and
6 (1) has been convicted of a felony, (2) has been convicted as delinquent
7 for the commission of a serious juvenile offense, as defined in section
8 46b-120, (3) knows that such person is subject to (A) a restraining or
9 protective order of a court of this state that has been issued against
10 such person, after notice and an opportunity to be heard has been
11 provided to such person, in a case involving the use, attempted use or
12 threatened use of physical force against another person, or (B) a
13 foreign order of protection, as defined in section 46b-15a, that has been
14 issued against such person in a case involving the use, attempted use
15 or threatened use of physical force against another person, (4) knows
16 that such person is subject to a firearms seizure order issued pursuant

17 to subsection (d) of section 29-38c, as amended by this act, after notice
 18 and an opportunity to be heard has been provided to such person, or
 19 (5) is prohibited from shipping, transporting, possessing or receiving a
 20 firearm pursuant to 18 USC 922(g)(4). For the purposes of this section,
 21 "convicted" means having a judgment of conviction entered by a court
 22 of competent jurisdiction.

23 (b) Criminal possession of a firearm, ammunition or an electronic
 24 defense weapon is a class D felony, for which two years of the sentence
 25 imposed may not be suspended or reduced by the court.

26 Sec. 2. Section 29-38c of the general statutes is repealed and the
 27 following is substituted in lieu thereof (*Effective October 1, 2011*):

28 (a) Upon complaint on oath by any state's attorney or assistant
 29 state's attorney or by any two police officers, to any judge of the
 30 Superior Court, that such state's attorney or police officers have
 31 probable cause to believe that (1) a person poses a risk of imminent
 32 personal injury to himself or herself or to other individuals, (2) such
 33 person possesses one or more firearms, and (3) such firearm or
 34 firearms are within or upon any place, thing or person, such judge may
 35 issue a warrant commanding a proper officer to enter into or upon
 36 such place or thing, search the same or the person and take into such
 37 officer's custody any and all firearms and ammunition. Such state's
 38 attorney or police officers shall not make such complaint unless such
 39 state's attorney or police officers have conducted an independent
 40 investigation and have determined that such probable cause exists and
 41 that there is no reasonable alternative available to prevent such person
 42 from causing imminent personal injury to himself or herself or to
 43 others with such firearm.

44 (b) A warrant may issue only on affidavit sworn to by the
 45 complainant or complainants before the judge and establishing the
 46 grounds for issuing the warrant, which affidavit shall be part of the
 47 seizure file. In determining whether grounds for the application exist
 48 or whether there is probable cause to believe they exist, the judge shall

49 consider: (1) Recent threats or acts of violence by such person directed
 50 toward other persons; (2) recent threats or acts of violence by such
 51 person directed toward himself or herself; and (3) recent acts of cruelty
 52 to animals as provided in subsection (b) of section 53-247 by such
 53 person. In evaluating whether such recent threats or acts of violence
 54 constitute probable cause to believe that such person poses a risk of
 55 imminent personal injury to himself or herself or to others, the judge
 56 may consider other factors including, but not limited to (A) the
 57 reckless use, display or brandishing of a firearm by such person, (B) a
 58 history of the use, attempted use or threatened use of physical force by
 59 such person against other persons, (C) prior involuntary confinement
 60 of such person in a hospital for persons with psychiatric disabilities,
 61 and (D) the illegal use of controlled substances or abuse of alcohol by
 62 such person. If the judge is satisfied that the grounds for the
 63 application exist or that there is probable cause to believe that they
 64 exist, such judge shall issue a warrant naming or describing the
 65 person, place or thing to be searched. The warrant shall be directed to
 66 any police officer of a regularly organized police department or any
 67 state police officer. It shall state the grounds or probable cause for its
 68 issuance and it shall command the officer to search within a reasonable
 69 time the person, place or thing named for any and all firearms and
 70 ammunition. A copy of the warrant shall be given to the person named
 71 therein together with a notice informing the person that such person
 72 has the right to a hearing under this section and the right to be
 73 represented by counsel at such hearing.

74 (c) The applicant for the warrant shall file a copy of the application
 75 for the warrant and all affidavits upon which the warrant is based with
 76 the clerk of the court for the geographical area within which the search
 77 will be conducted no later than the next business day following the
 78 execution of the warrant. Prior to the execution and return of the
 79 warrant, the clerk of the court shall not disclose any information
 80 pertaining to the application for the warrant or any affidavits upon
 81 which the warrant is based. The warrant shall be executed and
 82 returned with reasonable promptness consistent with due process of

83 law and shall be accompanied by a written inventory of all firearms
84 and ammunition seized.

85 (d) Not later than fourteen days after the execution of a warrant
86 under this section, the court for the geographical area where the
87 person named in the warrant resides shall hold a hearing to determine
88 whether the [seized] firearm or firearms and any ammunition seized
89 should be returned to the person named in the warrant or should
90 continue to be held by the state. At such hearing the state shall have
91 the burden of proving all material facts by clear and convincing
92 evidence. If, after such hearing, the court finds by clear and convincing
93 evidence that the person poses a risk of imminent personal injury to
94 himself or herself or to other individuals, it may order that the firearm
95 or firearms and any ammunition seized pursuant to the warrant issued
96 under subsection (a) of this section continue to be held by the state for
97 a period not to exceed one year, otherwise the court shall order the
98 [seized] firearm or firearms and any ammunition seized to be returned
99 to the person named in the warrant. If the court finds that the person
100 poses a risk of imminent personal injury to himself or herself or to
101 other individuals, it shall give notice to the Department of Mental
102 Health and Addiction Services which may take such action pursuant to
103 chapter 319i as it deems appropriate.

104 (e) Any person whose firearm or firearms and ammunition have
105 been ordered seized pursuant to subsection (d) of this section, or such
106 person's legal representative, may transfer such firearm or firearms
107 and ammunition in accordance with the provisions of section 29-33 or
108 other applicable state or federal law, to any person eligible to possess
109 such firearm or firearms. Upon notification in writing by such person,
110 or such person's legal representative, and the transferee, the head of
111 the state agency holding such seized firearm or firearms and
112 ammunition shall within ten days deliver such firearm or firearms and
113 ammunition to the transferee.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2011</i>	53a-217
Sec. 2	<i>October 1, 2011</i>	29-38c

JUD *Joint Favorable*